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Criminal accountability of United Nations officials and experts on mission

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Report of the Secretary-General

Summary

The present report has been prepared pursuant to paragraphs 16 and 17 of General Assembly resolution 66/93. Section II contains information received from Governments on the extent to which their national laws establish jurisdiction, in particular over crimes of a serious nature committed by their nationals while serving as United Nations officials or experts on mission. In section III information is presented on cooperation among States and with the United Nations in the exchange of information and the facilitation of investigations and prosecution of such individuals. Section IV contains comments of States as requested pursuant to paragraph 8 of the resolution. Sections V and VI concern information on the activities within the Secretariat in relation to the resolution.

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I. Introduction

1. In its resolution 66/93, the General Assembly requested the Secretary-General to report on the implementation of the resolution, in particular with respect to its paragraphs 3, 5 and 9, as well as any practical problems in its implementation, on the basis of information received from Governments and the Secretariat.

2. By a note verbale dated 27 December 2011, the Secretary-General drew the attention of all States to that resolution and requested them to submit relevant information.

3. The present report provides information on efforts undertaken in that regard. Sections II and III concern activities and information received relating to the criminal accountability of United Nations officials and experts on mission, as required under paragraphs 3, 4, 5, 9 and 15 of resolution 66/93. Section IV contains the comments of States as requested pursuant to paragraph 8 of the resolution. Sections V and VI of the report relate to activities undertaken within the Secretariat in the implementation of paragraphs 9 to 14 of the resolution, focusing in particular on information regarding the bringing of credible allegations that reveal that a crime may have been committed by United Nations officials or experts on mission to the attention of the States against whose nationals such allegations are made, and matters related thereto.

II. Establishment of jurisdiction over crimes of a serious nature

El Salvador

4. El Salvador stated that should personnel of the Salvadoran armed forces on mission with the United Nations commit any criminal action while on assignment, they may be tried and judged in El Salvador as the State has adopted relevant measures in its criminal legislation (articles 8, 9, 10 and 11 of the Criminal Code) enabling it to deal with a variety of matters, in accordance with the principles of territoriality, nationality and universality, depending on the nature of the crime committed and where it was committed.[1]

Kuwait

5. Kuwait drew attention to the information concerning its Penal Code found in the report of the Secretary-General of July 2009 (A/64/183, para. 15).

Panama

6. Further to the information it has previously submitted (A/65/185, para. 30, and A/66/174, para. 12), Panama advised that under article 18 of its new Criminal Code, Panamanian law was applicable to crimes against humanity (even if committed abroad), against the legal personality of the State, against public health and against the economy or public administration of the nation, as well as to the crimes of

[1] See also A/65/185, para. 17.

enforced disappearance, trafficking in persons, falsification of Panamanian public credit documents or official documents, stamps and seals and counterfeiting of Panamanian currency or other currencies that are legal tender in the country if, in the latter case, they were brought into or were intended to be brought into the territory of Panama.

7. Pursuant to article 20 of the Criminal Code, Panamanian law was applicable to crimes committed abroad, when:

(a) They produce or are intended to produce results in the territory of Panama;

(b) They are prejudicial to a Panamanian citizen or his/her rights;

(c) They are committed by Panamanian diplomatic agents, officials or employees who have not been prosecuted in the place where the crime was committed for reasons of diplomatic immunity;

(d) A national authority has denied the extradition of a Panamanian or a foreigner.

8. Moreover, under article 21 of the Criminal Code, notwithstanding the legislation in force in the place where the crime was committed and the nationality of the person accused of the crime, Panamanian criminal law shall apply to those who commit acts punishable under the international treaties in force in Panama, provided that the treaties give it territorial jurisdiction.

9. The provisions governing both money-laundering and cooperation are, moreover, conceived in general terms and are thus applicable to all persons involved in illicit activities, whether or not they are United Nations officials or experts on mission.

Switzerland

10. Switzerland confirmed that its judicial authorities were fully competent to prosecute Swiss nationals serving as United Nations officials or experts on mission. It recalled that Swiss criminal law covered crimes committed by Swiss nationals abroad when those crimes were punishable in the territory in which they had been committed or when the place where the act had been committed did not fall under any criminal jurisdiction (see Criminal Code, article 7, para. 1 (http://www.admin.ch/ch/f/rs/c311_0.html)).[2]

11. Switzerland recalled that, in order for it to prosecute its nationals serving as United Nations officials or experts on mission, it was clear that the United Nations would first have to lift the immunity they enjoyed under international treaties.

12. Switzerland also recalled that during the period from 1 July 2010 to 30 June 2011, the United Nations Office of Legal Affairs had referred the cases of six United Nations officials and two experts on mission to States of nationality for investigation and possible prosecution (A/66/174, para. 61). All of the alleged crimes mentioned by the Secretary-General were punishable under at least one

[2] See also A/63/260, para. 33, and A/66/174, paras. 19-21.

provision of Swiss criminal law,[3] not only when the acts in question were committed on Swiss territory but also if they were committed by a Swiss national abroad (Criminal Code, art. 7).

13. Concerning the recommendation that the capacities of national authorities to investigate and prosecute crimes of a serious nature be strengthened, Switzerland informed the Secretary-General that a centre for jurisdiction over crimes against humanity and war crimes had been established within the Office of the Public Prosecutor of the Confederation.

III. Cooperation between States and with the United Nations in the exchange of information and the facilitation of investigations and prosecutions

El Salvador

14. The Code of Criminal Procedure of El Salvador regulates cooperation in international investigations and reciprocal judicial assistance with regard to all criminal conduct. In particular, articles 78 and 327 provide the following provisions.

Cooperation in international investigations

15. Article 78: if criminal conduct takes place wholly or in part outside national territory or is attributed to persons related to international organizations, the Office of the Prosecutor-General of the Republic may set up joint investigation teams together with foreign or international institutions. In any event, joint investigation agreements shall be authorized and overseen by the Prosecutor-General of the Republic.

16. Where crimes of an international nature are involved, the Attorney-General of the Republic may be part of the international and inter-agency commission designated to cooperate in the investigation.

Other cases of apprehension

17. Article 327: in addition to the cases established under this Code, the police shall proceed to arrest an individual, even without a court order, in the following cases:

(a) If the individual has escaped from a penal institution or any other detention centre;

(b) If the individual is in possession of objects from which it can be inferred that he/she has committed a punishable offence or has marks or signs that would suggest he/she has participated in a criminal act;

[3] Sexual abuse of a minor (see Criminal Code, article 187), fraudulent wire transfer (see Criminal Code, article 147), assault and inappropriate use of a firearm (see Criminal Code, article 126), fraud and blackmail (see Criminal Code, articles 146 and 156), fraudulent medical insurance claims (see Criminal Code, article 146), sexual exploitation and abuse of a minor (see Criminal Code, article 187) and fuel theft (see Criminal Code, article 139).

(c) When the person is the subject of a red notice from international police institutions.

18. In the cases referred in paragraphs (a) and (b) above, the police must immediately hand over the person arrested to the judicial authority or to the Prosecution. In the case referred to in paragraph (c) the police shall follow the rules for international juridical cooperation. The Counsel for the Defence of Human Rights shall be informed of the arrest/detention.

19. These provisions reflect the progress that El Salvador has made with regard to the adoption of measures to ensure that there is no impunity for serious crimes, whether they be committed by officials and experts on mission or by any other person. These provisions are also related to the implementation of its obligations regarding universal respect for and observance of human rights in accordance with the provisions of the various international instruments that El Salvador has ratified, inter alia, the American Convention on Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Inter-American Convention to Prevent and Punish Torture.[4]

Finland

20. Finland recalled its previous comments (2008, 2009 and 2010) and advised that it had adopted, on 6 June 2012, a new national action plan for the implementation of Security Council resolution 1325 (2000) on women and peace and security. By the terms of the action plan "crisis management" covers, in the context of the United Nations, military, police and civilian participation in peacekeeping, peacebuilding and political operations.

21. The action plan on women and peace and security stresses that all forms of sexual exploitation and abuse constitute a criminal act. All Finnish military or civilian crisis management personnel involved in suspected sexual exploitation and abuse cases are to be reported to the competent authorities and investigated in accordance with Finnish law. In accordance with the action plan, Finland will report to organizations carrying out crisis management operations on how crimes committed within such operations are addressed and investigated.

22. The action plan also recalls that the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse entered into force in Finland in 2011, and notes that the Convention contains a waiver from the so-called requirement of double criminality. Sexual exploitation and sexual abuse of a child are also criminalized in Finland in cases where the act is committed in a State where such an act is not considered a crime. In Government-provided training, the criminal responsibility of crisis management personnel in accordance with Finnish law is stressed. This provision also applies in cases where personnel have immunity from the jurisdiction of national courts of the area of operation.

[4] See also A/65/185, paras. 56 and 57.

Kuwait

23. Kuwait recalled the information on cooperation submitted in a previous report (A/64/183, para. 51). It also underlined its readiness to implement fully the measures contained in resolution 66/93, within the ambit of international judicial cooperation, as well as under all applicable conventions relating to this matter.

Panama[5]

24. Panama, by its resolution No. 13 of 18 December 2000, established the International Affairs Secretariat within the Attorney General's Office, which is in charge of international legal assistance and collaboration within the framework of international cooperation, in strict observance of international and domestic norms. The Secretariat generally works in coordination with the Ministry of Foreign Affairs.

25. Through work done by the Attorney General's Office international agreements have been concluded with the agencies responsible for prosecuting crimes in other countries, including the development of best practices in dealing with their requests.

26. Panama has concluded mutual legal assistance treaties and ratified other legal instruments with various countries, including Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Spain, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

27. Panama is also party to the Inter-American Convention on Mutual Assistance in Criminal Matters, concerning which it has made a declaration that it is under no obligation to offer assistance in cases where the acts in question are not crimes in Panama and that the offering of such assistance would violate legal provisions in force in Panama.

28. The Department for the Implementation of Mutual Legal Assistance Treaties, established by decision No. 1446 of 13 September 1991, later amended by decision No. 94 of 12 April 1995, is responsible for the implementation of the above agreements.

29. Act No. 39 of 9 July 2001 establishes that, for the purposes of international assistance and cooperation under the Inter-American Convention against Corruption, the General Transactions Division Four of the Supreme Court shall be designated as the main authority responsible for formulating, receiving, processing and dispatching requests for international assistance and cooperation.

30. The Judicial Code of Panama has standard norms on matters such as documents originating abroad, specifically under article 877, which indicates that such documents can be used as evidence in criminal proceedings if, except as otherwise established in international instruments, they meet the following criteria: (a) they have been authenticated by a diplomatic or consular official of Panama on duty in the place where the document originated; or (b) they have, in the absence of a diplomatic or consular official, been authenticated by the diplomatic or consular representative of a friendly nation, in which case a certification shall be attached by the Ministry of Foreign Affairs attesting that no Panamanian consular or diplomatic official is serving in the place where the document originated. It shall be assumed

[5] See also A/66/174, paras. 47 and 48.

that documents thus authenticated have been issued in conformity with the local law of their place of origin, unless the interested party proves the contrary.

31. There is no specific provision guaranteeing protection for victims of crimes committed by United Nations officials and experts on mission because Panamanian law does not normally make explicit provision for all possible occurrences. However, there are principles whose application in conjunction with other provisions do offer effective protection, including the Constitution, as well as the Code of Criminal Procedure, which establishes precautionary measures that may be imposed on those convicted of a crime. Panama also has some special laws governing protection, such as the special criminal regime for adolescents, domestic violence and the abuse of children and adolescents, the legislation governing offences against sexual integrity and freedom, the special provisions on drug-related offences, the Act for the protection of victims of crime and the Act on trafficking in persons and related activities.

IV. Comments made pursuant to paragraph 8 of resolution 66/93

32. Switzerland remained convinced that in the long term the most appropriate way of effectively resolving the problems encountered in this area once and for all would be to draft an international convention. It believed that such a convention should include all categories of peacekeeping mission personnel, including officials and experts on mission as well as military personnel.

V. Bringing credible allegations that reveal that a crime may have been committed by United Nations officials or experts on mission to the attention of the States against whose nationals such allegations are made, and matters related thereto

33. In paragraphs 9 to 14, 16 and 17 of its resolution 66/93, the General Assembly urged Member States to provide information to the Secretary-General, requested the Secretary-General to provide certain information to the Assembly and requested the United Nations to take certain measures concerning the issue of the criminal accountability of officials and experts on mission.

Referrals in relation to officials or experts on mission

34. The request in paragraph 9 of General Assembly resolution 66/93 is similar to that made by the Assembly in paragraph 9 of its resolutions 65/20 (see A/66/174), 64/110 (see A/65/185), 63/119 (see A/64/183) and 62/63 (see A/63/260).

35. The information provided in the present report relates to the period from 1 July 2011 to 30 June 2012. During the reporting period, the Office of Legal Affairs referred to States of nationality the cases of 17 United Nations officials for investigation and possible prosecution. The cases concerned the following allegations: the first, fraud in relation to education grant entitlements, which was referred to two separate Member States; the second through eighth, fuel fraud; the ninth, theft of funds; the tenth, procurement fraud, which was referred to two separate Member States; the eleventh, theft of funds; the twelfth through fifteenth, dental insurance fraud; and the sixteenth and seventeenth, theft of funds.

Requests for indication of status and assistance that may be provided by the Secretariat

36. The Office of Legal Affairs requested the States to which cases were referred during the reporting period to keep the United Nations informed of any action taken by national authorities in relation to such cases. As at the date of preparation of the present report, one State to which a referral was made has contacted the Office of Legal Affairs to note that the matter had been raised with relevant officials. The Office of Legal Affairs remains ready to provide assistance with regard to all referrals made.

37. Details of earlier requests by the Secretariat for information from States on how they were handling cases previously referred to them have already been received (see A/64/183, para. 63, A/65/185, paras. 85 and 86 and A/66/174, paras. 62 and 63).

Possible use by States exercising jurisdiction of information from United Nations investigations

38. In paragraph 11 of its resolution 66/93, the General Assembly requested the United Nations, when its investigations into allegations suggest that crimes of a serious nature may have been committed by officials or experts of the Organization on mission, to consider any appropriate measures that may facilitate the possible use of information and material for purposes of criminal proceedings initiated by States, bearing in mind due process considerations. In the same vein, in paragraph 13 of that resolution, the Assembly urged the United Nations to continue cooperating with States exercising jurisdiction in order to provide them, within the framework of the relevant rules of international law and agreements governing activities of the United Nations, with information and material for purposes of criminal proceedings initiated by States.

39. In that regard, it is important to recall that the legal framework within which the referrals are made by the United Nations and the role of the Secretary-General have been outlined previously (see A/63/260, sect. IV).

40. The United Nations cooperates with law enforcement and judicial authorities of relevant Member States in accordance with its rights and obligations under the Convention on the Privileges and Immunities of the United Nations of 1946, as well as other relevant international agreements and applicable legal principles. Accordingly, the Organization will disclose documents and/or information and waive immunity on a case-by-case basis where, in the opinion of the Secretary-General, immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. Consequently, information obtained by the Organization may be provided to the relevant authorities, and documents may be shared, subject to consideration of confidentiality and privileges and immunities. Documents may be redacted where necessary. It should be noted that, since the United Nations does not have any criminal investigative or prosecutorial jurisdiction, the use of any documents or information provided by the United Nations, including their admissibility in any legal proceedings, is a matter for determination by the relevant judicial authorities to whom such documents or information have been provided.

Protection of United Nations officials and experts on mission from retaliation

41. In paragraph 12 of its resolution 66/93, the General Assembly encouraged the United Nations, should allegations against United Nations officials or experts on mission be determined by a United Nations administrative investigation to be unfounded, to take appropriate measures, in the interests of the Organization, to restore the credibility and reputation of such officials and experts on mission.

42. Moreover, the General Assembly, in paragraph 14 of the same resolution, emphasized that the United Nations, in accordance with the applicable rules of the Organization, should take no action that would retaliate against or intimidate United Nations officials and experts on mission who report allegations concerning crimes of a serious nature committed by United Nations officials and experts on mission.

43. In this regard, United Nations officials who report misconduct by other United Nations officials or experts on mission are protected against retaliation under the staff regulations, rules and relevant administrative issuances, in particular, the Secretary-General's bulletin entitled "Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations" (ST/SGB/2005/21), with the objective of enhancing protection for individuals who report misconduct or cooperate with duly authorized audits or investigations. In addition, it should be noted that staff members may appeal any retaliatory measure through the internal justice system.

VI. Other practical measures to strengthen existing training on United Nations standards of conduct, including through predeployment and in-mission induction training

44. The Department of Peacekeeping Operations and the Department of Field Support continue to implement the three-pronged strategy of the United Nations to address misconduct, in particular sexual exploitation and abuse, through preventive measures, the enforcement of United Nations standards of conduct and remedial action. Training, awareness-raising activities and preventive measures at the mission level are at the centre of the actions taken by field missions to prevent misconduct and sexual exploitation and abuse. Resources are allocated to that effect, both at Headquarters and in field missions.

45. During the reporting period, 12 conduct and discipline teams were in place in peacekeeping and special political missions supported by the Department of Field Support, covering 19 missions and the United Nations Logistics Base at Brindisi, Italy (UNLB).

46. Conduct and discipline teams continue to develop and implement various measures on prevention, enforcement and remedial action. Based on monthly mission reports submitted during the reporting period, training in United Nations standards of conduct as well as specific training on the prevention of sexual exploitation and abuse was conducted either as part of the induction of new personnel at missions or at separate sessions. Communication and awareness-raising activities among conduct and discipline teams consisted of messages on prevention of misconduct and sexual exploitation and abuse, pride of purpose and behaviour appropriate to United Nations personnel. This was delivered through intra-mission

tools such as radio and online broadcast messaging, e-mail alerts, posters and administrative instructions from mission leadership.

47. Predeployment training of the United Nations standards of conduct is provided to staff members before their arrival at peacekeeping and special political missions as part of the one-week training regularly delivered at UNLB. Member States continue to be requested to provide similar predeployment training to their uniformed personnel, using training materials developed by the United Nations and made available to the troop-contributing and police-contributing countries. This material was revised and updated in December 2009 and can be adapted to reflect the different disciplinary and criminal accountability processes applicable to staff members, experts on mission and members of military contingents that may be deployed in field missions.

48. In October 2011, a meeting involving high-level representatives of the United Nations was hosted by the Department of Field Support to discuss and formulate a renewed proactive strategy to address sexual exploitation and abuse by mission personnel. Among the issues discussed were the need for the review and strengthening of training materials and awareness-raising messages in order to ensure that standards and values are clearly communicated and understood. This will be addressed as part of the Integrated Conduct and Discipline Framework that was put forward, later in 2011, with the objective of enhancing the integration of conduct and discipline in field missions as a global corporate function.

49. In his report on special measures for the protection from sexual exploitation and sexual abuse (A/66/699, para. 36), the Secretary-General reiterated his commitment to criminal accountability, indicating that he would not hesitate to lift the immunity of staff members and experts on mission who were alleged to have engaged in criminal conduct, provided that there was an expectation that the alleged perpetrators would receive a prompt, fair and impartial hearing that conforms to accepted international norms.

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Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Sixty-seventh year

Report of the International Tribunal for the Former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the members of the Security Council the nineteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, submitted by the President of the International Tribunal in accordance with article 34 of the statute of the Tribunal (see S/25704 and Corr.1, annex) which states that:

> The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly.

* A/67/150.

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Letter of transmittal

31 July 2012

I have the honour to submit the nineteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, dated 31 July 2012, to the General Assembly and the Security Council, pursuant to article 34 of the statute of the International Tribunal.

(*Signed*) Theodor **Meron**
President

Nineteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Summary

The nineteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 covers the period from 1 August 2011 to 31 July 2012.

The Tribunal continued to focus upon the completion of all trials and appeals. At the close of the reporting period, 17 persons are in appeal proceedings, 17 persons are on trial, and one person is at the pretrial stage. Proceedings against 126 of the 161 persons indicted by the Tribunal have been completed. The report that follows details the activities of the Tribunal during the reporting period and demonstrates the Tribunal's focus on its goal of completing its proceedings as soon as possible, without sacrificing due process.

The President intensified efforts to streamline procedures and introduced a variety of reforms to improve the pace of the Tribunal's work. The President focused especially on problems that might impact the efficiency of proceedings, such as delays in translations and imbalanced workload distribution between ad litem and permanent judges. Staff attrition continued to be a serious challenge to the work of the Tribunal.

All sections of the Tribunal coordinated to ensure a smooth transition of functions to the International Residual Mechanism for Criminal Tribunals. The Office of Legal Affairs and the Informal Working Group of the Security Council on International Tribunals provided extensive and valuable assistance and advice to the Tribunal. On 1 July 2012, the branch for the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (the branch for the International Criminal Tribunal for Rwanda is based in Arusha, United Republic of Tanzania) of the Residual Mechanism began operating.

During the reporting period, the Tribunal continued to make significant contributions to the development of legal norms of international criminal law and procedure, and to the maintenance of peace and stability in the states of the former Yugoslavia. The Tribunal's success is underscored by the fact that all 161 indictees are accounted for, and by the Tribunal's reputation for procedural fairness and impartiality.

The Tribunal made extensive efforts to share information about its work with relevant individuals and organizations, facilitating exchanges of information about the trials and appeals it has conducted, the substantive norms its judgements have elucidated, and the procedural approaches its judicial branches have adopted.

The Office of the Prosecutor made progress towards the completion of the Tribunal's mandate at both the trial and appellate levels. The Office continued to develop working relationships with the authorities of the States of the former Yugoslavia to encourage cooperation with the Tribunal and to support domestic war crimes prosecutions.

Under the authority of the President, the Registry continued to play a crucial role in the provision of administrative and judicial support to the Tribunal. The Office of the Registrar coordinated the work of the various Registry sections, which dealt with a wide range of legal, policy and operational matters, including the practical arrangements necessary for the commencement of the Residual Mechanism.

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I. Introduction

1. The nineteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 outlines the activities of the Tribunal for the period from 1 August 2011 to 31 July 2012.

2. During the reporting period, the Tribunal continued to implement its completion strategy as endorsed by the Security Council in resolution 1503 (2003), and to focus on ensuring that trial and appeal proceedings were not delayed. At the close of the reporting period, 17 persons are in appeal proceedings, 17 persons are on trial, and one person is at the pretrial stage. The Trial Chambers delivered judgement in the case of *Prosecutor v. Momčilo Perišić*, and contempt judgements in the cases of *Prosecutor v. Shefqet Kabashi*; *The Contempt Case of Dragomir Pećanac*; *Prosecutor v. Jelena Rašić*; and *Prosecutor v. Vojislav Šešelj* (case numbers IT-03-67-R77.3 and IT-03-67-R77.4). The Tribunal has concluded proceedings against 126 of the 161 persons indicted by the Tribunal. There are no outstanding indictments for violations of core statutory crimes.

3. President Patrick Robinson (Jamaica) and Vice-President O-Gon Kwon (Republic of Korea) demitted office on 17 November 2011, following the election of Judge Theodor Meron (United States of America) and Judge Carmel Agius (Malta) as President and Vice-President respectively. The Prosecutor, Serge Brammertz, was reappointed by the Security Council on 14 September 2011 by its resolution 2007 (2011), with effect from 1 January 2012. The Registrar, John Hocking, continued to fulfil his duties at the Tribunal.

4. Measures were taken during the reporting period to reform the Tribunal's procedures to maximize efficiency. In particular, the President implemented measures to ensure that the pace of translations would not unduly delay proceedings. Additional resources were assigned to the cases of *Prosecutor v. Jadranko Prlić et al.*, *Prosecutor v. Zdravko Tolimir*, and *Prosecutor v. Vojislav Šešelj* to reduce previously forecast translation times by 50 per cent. Following the approval of the Secretary-General and the Security Council, the President reassigned the Tribunal's contempt cases, creating a more even workload distribution between permanent and ad litem judges, thus assuring greater efficiency in the processing of contempt cases, and minimizing their impact on other cases before the Tribunal.

5. The pace of the Tribunal's trials and appeals continued to be affected by staffing shortages and the loss of highly experienced staff members. Despite resolutions adopted by the General Assembly and the Security Council on the issue of staff retention, the problem persists. In response, the President, joining the calls of his predecessor, urged the Security Council to take measures to help the Tribunal to find practicable solutions to address the issue as the Tribunal approaches the completion of its work. Following requests by the President in December 2011, and clear statements of support from the Security Council, the Tribunal obtained a waiver from the Department of Management, allowing it to hire otherwise qualified interns directly, without waiting six months after the termination of their internships. This measure will assist the Tribunal in quickly replacing departing staff in certain circumstances.

II. Activities involving the entire Tribunal

A. President

6. The President focused his efforts upon the core functions of the Tribunal — trials and appeals. He also instituted internal reforms, pursued capacity-building and legacy projects, conducted relations with Governments and international organizations, and carried out the judicial responsibilities of the Office of the President.

1. Internal reforms

7. The Tribunal amended rule 65 of the Rules of Procedure and Evidence in order to clarify the circumstances in which provisional release may be ordered by a Trial Chamber.

8. The President coordinated closely with the Office of Legal Affairs and the Informal Working Group to implement management reforms that reduced the risk of delays in judgements and appeals. In particular, the President implemented measures to expedite the translations of final trial briefs and trial judgements to avoid delays on appeals. The President instructed both the Registrar of the International Tribunal for the Former Yugoslavia and, in his capacity as President of the Appeals Chamber of the International Criminal Tribunal for Rwanda, the Registrar of the International Criminal Tribunal for Rwanda, to assign additional resources in order to halve the projected time needed for translation in four cases. The Trial Chambers also expanded the practice of including translators in the judgement drafting process in order to expedite the translation of trial judgements.

9. The President reassigned a number of contempt cases to ad litem judges with the permission of the Secretary-General and the approval of the Security Council. Previously, the burden of contempt cases had fallen primarily on the Tribunal's permanent trial judges. This meant that permanent trial judges were seized of up to 10 contempt cases in addition to cases involving core crimes within the jurisdiction of the Tribunal. By reassigning contempt cases to the Tribunal's ad litem judges, the President relieved a burden that had been adversely affecting progress in the permanent judges' other cases.

10. The President closely monitors the progress of trials and appeals, and has proactively assigned additional legal staff to cases where increased staffing can prevent delays.

2. Capacity-building and legacy

11. In October 2011, the Tribunal, the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE) and the United Nations Interregional Crime and Justice Research Institute officially closed the joint 18-month "War Crimes Justice Project", which had been established in Sarajevo, Bosnia and Herzegovina, and was a project generously supported by the European Union. The success of the project inspired to begin planning another similar project, in consultation with the Tribunal.

12. On 15 and 16 November 2011, the Tribunal hosted a Conference on the global legacy of the Tribunal, which was attended by over 350 participants. The

Conference was made possible by generous financial assistance provided by the Governments of Luxembourg, the Netherlands, the Republic of Korea and Switzerland, as well as the International Center for Transitional Justice.

13. The Tribunal also continued its assessment of the feasibility of establishing information centres in the region of the former Yugoslavia. Following a series of meetings generously sponsored by the Governments of Slovenia and Switzerland, the Tribunal began bilateral consultations with interested countries. Croatia has expressed its willingness to establish an information centre, as have the Bosniak and Croat members of the Presidency of Bosnia and Herzegovina. Discussions with all relevant States are ongoing.

14. Plans for commemorations appropriate to the Tribunal's twentieth anniversary in 2013 are in the process of being reviewed and will be announced in due course.

3. Relations with Governments and international organizations

15. Prior to the end of his Presidency in November 2011, President Robinson was actively involved in cooperation, outreach and reporting activities to secure support for the Tribunal's work and increase its international profile. President Meron took over responsibility for these activities on the assumption of the Presidency on 17 November 2011.

16. On 5 October 2011, the Tribunal's judges welcomed a group of judges and prosecutors from Kosovo on a study visit to the Tribunal. The visit was part of the Tribunal's ongoing efforts to strengthen cooperation and knowledge-sharing with members of the judiciary in the former Yugoslavia. Tribunal judges met with the visiting members of the Kosovo judiciary to discuss topics including witness protection, plea bargaining, sentencing practice, case management, the appeals process, and legal standards in war crimes adjudication.

17. On 11 November 2011, the President addressed the General Assembly regarding the Tribunal's eighteenth annual report (A/66/210-S/2011/473).

18. On 30 November 2011, the Tribunal hosted a visit by judges of the Appeals Chamber of the International Criminal Court, who met with judges of the Tribunal's Appeals Chamber in order to hear about the Tribunal's experience in preparing for appeals.

19. On 7 December 2011, President Meron addressed the Security Council regarding the sixteenth report of the Tribunal on its completion strategy (S/2011/716).

20. From 10 to 18 February 2012, the President visited the United States of America, providing briefings on the Tribunal's work, the transition to the Residual Mechanism, and challenges facing the Tribunal.

21. From 27 to 31 March 2012, the President visited Washington, D.C., on a visit organized by the city of The Hague in conjunction with leaders of international institutions located there.

22. On 16 April 2012, the President visited the United Kingdom of Great Britain and Northern Ireland, providing a briefing on the Tribunal's completion strategy, the challenges it faced, and the Tribunal's transition to the Residual Mechanism.

23. On 23 April 2012, the President visited France, providing a briefing on the Tribunal's progress towards the completion of its work and the transition to the Residual Mechanism.

24. On 7 June 2012, the President addressed the Security Council regarding the seventeenth report of the Tribunal on its completion strategy (S/2012/354).

25. Between 25 and 29 June 2012, the Tribunal's judges welcomed a study trip by French judges and prosecutors organized by France's National Training School for Judges and Prosecutors. The group was briefed about the work, challenges and achievements of the Tribunal.

26. On 27 June 2012, the Tribunal's judges welcomed members of the Liberal Democratic group of the European Parliament. The parliamentarians were briefed about the work, challenges and achievements of the Tribunal.

4. Judicial activity

27. By virtue of the powers vested in him by the statute, the Rules, and the Practice Directions of the Tribunal, the President issued numerous orders assigning cases to Chambers and reviewed several decisions of the Registrar. The President also granted six requests for pardon, commutation of sentence, transfer, and early release of persons convicted by the Tribunal, and rejected six such applications.

5. Transition to the International Residual Mechanism for Criminal Tribunals

28. On 20 December 2011, the General Assembly elected 25 judges to serve on a roster of judges of the International Residual Mechanism for Criminal Tribunals. On 19 January 2012, the Secretary-General appointed the Registrar of the Tribunal, John Hocking, to serve as the first Registrar of the Residual Mechanism, whose branch in Arusha commenced functioning on 1 July 2012. On 29 February 2012, the Secretary-General appointed Judge Meron, President of the Tribunal and judge of the Residual Mechanism, to serve as the first President of the Residual Mechanism. On 29 February 2012, the Security Council appointed the Prosecutor of the International Criminal Tribunal for Rwanda, Hassan Bubacar Jallow, to serve as the first Prosecutor of the Residual Mechanism. The branch for the International Tribunal for the Former Yugoslavia (based in The Hague, the Netherlands) of the Residual Mechanism will commence functioning on 1 July 2013.

29. The President has taken active steps to ensure a smooth handover of functions to the Residual Mechanism, liaising with internal and external stakeholders and facilitating the development of necessary practices and procedures. In particular, in close coordination with the Office of Legal Affairs and the Informal Working Group, the President ensured that the Rules of Procedure and Evidence of the Residual Mechanism were adopted, and that all judges of the Residual Mechanism were sworn in prior to commencement of the activities of the Arusha branch.

B. Bureau

30. Pursuant to rule 23 of the Rules, the Bureau is composed of the President, the Vice-President and the Presiding Judges of the Trial Chambers. The President consulted the Bureau on requests for pardon, commutation of sentence, and early release of convicted persons serving their sentences. The President also consulted

the Bureau on the implementation of a procedure for the destruction of Chambers records related to the secrecy of deliberations.

C. Coordination Council

31. Pursuant to rule 23 *bis* of the Rules, the Coordination Council consists of the President, the Prosecutor and the Registrar. During the reporting period, the Council met to discuss, inter alia, staff retention, capacity-building, legacy activities, and ensuring a smooth transition to the Residual Mechanism.

D. Plenary sessions

32. During the reporting period, the judges held two plenary sessions. At the 41st plenary session, on 19 October 2011, the judges elected Judge Meron as President of the Tribunal and Judge Agius as Vice-President. At the extraordinary plenary session held on 20 October 2011, the judges discussed proposed amendments to rule 65 (B) of the Rules.

33. On 21 to 25 October 2011, the judges travelled to Berlin for a retreat personally funded by the judges. The purpose of the retreat was to build collegiality among the judges and to discuss issues concerning the work of the Tribunal in a more informal setting. During the retreat, the judges discussed the Tribunal's legacy, amendments to the Rules, admissibility of evidence and the expansion of the Appeals Chamber.

E. Rules Committee

34. The judicial membership of the Rules Committee comprises Vice-President Agius (Chair), President Meron, and Judges Christoph Flügge, Alphons Orie and O-Gon Kwon. The non-voting members include the Prosecutor, the Registrar and a representative of the Association of Defence Counsel. During the reporting period, the Rules Committee met twice, on 17 October 2011 and 22 March 2012, to discuss proposals to the Rules and make recommendations to the judges.

III. Activity of the Chambers

A. Composition of the Chambers

35. A total of 27 judges from 25 countries currently serve at the Tribunal. The Chambers are composed of 13 permanent judges, five permanent judges from the International Criminal Tribunal for Rwanda serving in the Appeals Chamber, and nine ad litem judges.

36. The Tribunal's permanent judges are: Theodor Meron (President, United States of America), Carmel Agius (Vice-President, Malta), Christoph Flügge (Germany), Alphons Orie (Netherlands), O-Gon Kwon (Republic of Korea), Patrick Robinson (Jamaica), Fausto Pocar (Italy), Liu Daqun (China), Jean-Claude Antonetti (France), Bakone Justice Moloto (South Africa), Burton Hall (Bahamas), Howard Morrison (United Kingdom of Great Britain and Northern Ireland) and Guy Delvoie

(Belgium). The permanent judges from the International Criminal Tribunal for Rwanda serving in the Appeals Chamber are: Mehmet Güney (Turkey), Andrésia Vaz (Senegal) and, following their redeployment from the Trial Chamber of the International Criminal Tribunal for Rwanda to the Appeals Chamber, Arlette Ramaroson (Madagascar), effective 22 September 2011, Khalida Rachid Khan (Pakistan), effective 1 March 2012, and Bakhtiyar Tuzmukhamedov (Russian Federation), effective 29 June 2012.

37. During the reporting period, the following individuals served as ad litem judges: Árpád Prandler (Hungary), Stefan Trechsel (Switzerland), Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo), Frederik Harhoff (Denmark), Flavia Lattanzi (Italy), Michèle Picard (France), Elizabeth Gwaunza (Zimbabwe), Melville Baird (Trinidad and Tobago) and Prisca Matimba Nyambe (Zambia). Judge Pedro David (Argentina) also served as an ad litem judge during the reporting period, but left the Tribunal on 10 September 2011 having completed his mandate.

38. During the reporting period, the Trial Chambers were composed of Judges Flügge (presiding), Orie (presiding), Kwon (presiding), Antonetti (presiding), Moloto (presiding), Hall (presiding), Morrison, Delvoie, Prandler, Trechsel, Mindua, Harhoff, Lattanzi, David, Picard, Gwaunza, Baird and Nyambe.

39. During the reporting period, the Appeals Chamber was composed of Judges Meron (presiding), Agius, Robinson, Güney, Pocar, Liu, Ramaroson, Vaz, Khan and Tuzmukhamedov.

B. Principal activity of the Trial Chambers

Trial Chamber I

(a) Pretrial

40. There were no pretrial cases pending before Trial Chamber I at the end of the reporting period.

(b) Trial

Perišić

41. The judgement was rendered on 6 September 2011. The Trial Chamber, composed of Judges Moloto (presiding), David and Picard, found Momčilo Perišić guilty of crimes against humanity and violations of the laws or customs of war, for crimes committed in Sarajevo and Srebrenica (Bosnia and Herzegovina) and Zagreb (Croatia) between August 1993 and November 1995. He was sentenced to 27 years' imprisonment.

Mladić

42. Ratko Mladić is charged with 11 counts of genocide, crimes against humanity, and violations of the laws or customs of war, for acts allegedly committed in Bosnia and Herzegovina between 12 May 1992 and 30 November 1995. The Trial Chamber is composed of Judges Orie (presiding), Flügge and Moloto. The pretrial conference was held on 24 April and 3 May 2012 and the prosecution presented its opening statement on 16 and 17 May 2012. The presentation of the prosecution's case commenced on 9 July 2012.

Stanišić and Simatović

43. Jovica Stanišić and Franko Simatović are charged with five counts of crimes against humanity and violations of the laws or customs of war, for acts allegedly committed in Croatia and Bosnia and Herzegovina between April 1991 and December 1995. The Trial Chamber is composed of Judges Orie (presiding), Picard and Gwaunza. The trial commenced on 28 April 2008, but was adjourned by order of the Appeals Chamber of 16 May 2008, owing to the ill health of Stanišić. The trial recommenced on 2 June 2009. The prosecution concluded its case on 5 April 2011. The defence for Stanišić commenced its case on 14 June 2011 and the defence for Simatović commenced its case on 13 December 2011. Following decisions on a large number of bar table motions for admission into evidence, the defence is scheduled to conclude its case in August 2012. In the week of 9 July 2012, the Chamber heard one Chamber witness. The submission of the parties' final briefs and final arguments are scheduled for 21 September 2012 and from 9 to 11 October 2012, respectively.

(c) Contempt

Shefqet Kabashi

44. Shefqet Kabashi pleaded guilty to two charges of contempt for his failure to testify before the Tribunal in the case of *Prosecutor v. Ramush Haradinaj et al.* (Case No. IT-04-84-T). At a hearing on 31 August 2011, the Trial Chamber, consisting of Judges Orie (presiding), Kwon and Morrison accepted Kabashi's guilty plea on both counts. On 16 September 2011, the Chamber sentenced Kabashi to two months' imprisonment.

Trial Chamber II

(a) Pretrial

Goran Hadžić

45. Goran Hadžić was arrested on 20 July 2011 and transferred to the seat of the Tribunal on 22 July 2011. On 21 July 2011, the President of the Tribunal assigned the case to a bench consisting of Judges Delvoie (presiding), Hall and Mindua. On 25 July 2011, the initial appearance was held. Pretrial preparations are under way. The trial is scheduled to commence on 16 October 2012.

(b) Trial

Haradinaj et al.

46. Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj are charged with six counts of violations of the laws or customs of war, for acts allegedly committed in Kosovo in 1998. The Trial Chamber is composed of Judges Moloto (presiding), Hall and Delvoie. The trial commenced on 18 August 2011; the prosecution concluded its case on 20 April 2012, and none of the accused presented a defence case. Closing arguments were heard on 25, 26 and 27 June 2012. The judgement is being prepared.

Tolimir

47. Zdravko Tolimir is charged with eight counts of genocide, crimes against humanity, and violation of the laws or customs of war, for acts allegedly committed in Bosnia and Herzegovina in 1995. The Trial Chamber is composed of Judges Flügge (presiding), Mindua and Nyambe. The trial commenced on 26 February 2010; the prosecution concluded its case on 17 January 2012, and the defence concluded its case on 15 February 2012. Closing arguments are scheduled to be presented on 21 and 22 August 2012.

Stanišić and Župljanin

48. Mićo Stanišić and Stojan Župljanin are charged with 10 counts of crimes against humanity and violations of the laws or customs of war, for acts allegedly committed in Bosnia and Herzegovina between April and December 1992. The Trial Chamber is composed of Judges Hall (presiding), Delvoie and Harhoff. Trial commenced on 14 September 2009; the prosecution concluded its case on 1 February 2011, and the defence concluded its case on 8 December 2011. The judgement is being prepared.

(c) Contempt

Pećanac

49. Dragomir Pećanac was convicted of one count of contempt for his failure to appear at the Tribunal when subject to a subpoena in the case of *Prosecutor v. Zdravko Tolimir*. His trial before the Chamber in the *Tolimir* case, consisting of Judges Flügge (presiding), Mindua and Nyambe, was held on 30 November 2011 and 1 December 2011. On 9 December 2011, the Chamber sentenced Pećanac to three months' imprisonment.

Šešelj (Case No. IT-03-67-R77.4)

50. Vojislav Šešelj was convicted of one count of contempt for his failure to comply with several Chambers orders requiring him to remove from his public website four books authored by him and several submissions filed confidentially in the case of *Prosecutor v. Vojislav Šešelj* (Case No. IT-03-67-T), all of which reveal confidential witness information. His trial before the Chamber in the *Šešelj* contempt case, consisting of Judges Trechsel (presiding), Kwon and Baird was held on 12 and 18 June 2012. On 28 June 2012, the Chamber sentenced Šešelj to two years' imprisonment.

Trial Chamber III

(a) Pretrial

51. There were no pretrial cases pending before Trial Chamber III during the reporting period.

(b) Trial

Karadžić

52. Radovan Karadžić is charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war, for acts allegedly committed

in Bosnia and Herzegovina between 1992 and 1995. The Trial Chamber is composed of Judges Kwon (presiding), Morrison, Baird and Lattanzi (reserve). The trial commenced on 26 October 2009. The prosecution concluded its case on 25 May 2012. The accused presented an oral motion under rule 98 *bis* for acquittal on all the counts in the indictment. On 28 June 2012, the Trial Chamber delivered its oral ruling, acquitting Karadžić of count 1 (genocide in the municipalities) and dismissing the remainder of Karadžić's motion under rule 98 *bis*. The defence is scheduled to commence its case on 16 October 2012.

Prlić et al.

53. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić are charged with 26 counts of crimes against humanity and violations of the laws or customs of war, for acts allegedly committed in Bosnia and Herzegovina between November 1991 and April 1994. The Trial Chamber is composed of Judges Antonetti (presiding), Prandler, Trechsel and Mindua (reserve). The trial commenced on 26 April 2006; the prosecution concluded its case on 24 January 2008, and the defence concluded its case on 17 May 2010. On 7 January 2011, the parties filed their final briefs. Closing arguments were heard between 7 February and 2 March 2011. The judgement is being prepared.

Šešelj

54. Vojislav Šešelj is charged with nine counts of crimes against humanity and violations of the laws or customs of war, for acts allegedly committed in Croatia, Bosnia and Herzegovina and Vojvodina (Serbia) between August 1991 and September 1993. The Trial Chamber is composed of Judges Antonetti (presiding), Harhoff and Lattanzi. The trial started on 7 November 2007, but was adjourned on 11 February 2009. The trial recommenced on 12 January 2010. After the close of the prosecution's case-in-chief, the Trial Chamber, on 4 May 2011, ruled under rule 98 *bis* that there was enough evidence to support the counts alleged in the indictment. During an administrative hearing held on 23 August 2011, Šešelj confirmed that he would not present a defence case. Šešelj and the prosecution filed their final briefs on 30 January 2012 and 5 February 2012, respectively. Closing arguments were heard between 5 March and 20 March 2012. The judgement is being prepared.

(c) Contempt

Tupajić

55. Milan Tupajić was convicted of one count of contempt for his failure to appear at the Tribunal when subject to two subpoenas in the *Karadžić* case. His trial before the Chamber in the *Karadžić* case, consisting of Judges Kwon (presiding), Morrison, Baird and Lattanzi (reserve), was held on 3 February 2012. On 24 February 2012, the Chamber sentenced Tupajić to two months' imprisonment.

Rašić

56. Jelena Rašić, a former member of the Milan Lukić defence team, pleaded guilty to five charges of contempt for procuring false statements in exchange for money from three persons to be called as witnesses for the defence for Milan Lukić in *Prosecutor v. Milan Lukić and Sredoje Lukić*. At a hearing on 31 January 2012, the Trial Chamber, consisting of Judges Morrison (presiding), Picard and Nyambe

accepted Rašić's plea agreement. On 7 February 2012, the Chamber sentenced Rašić to 12 months' imprisonment, suspending the last eight months thereof for two years on condition that she not commit another crime punishable by imprisonment, including contempt.

(d) Rule 11 *bis* Referral Bench

57. The Rule 11 *bis* Referral Bench has transferred all low- and mid-level accused from its trial docket in accordance with Security Council resolution 1503 (2003).

(e) Specially Appointed Chamber (rule 75 (H) and (G), rule 75 *bis* and rule 75 *ter*)

58. The Specially Appointed Chamber has issued 20 decisions and orders, deciding on applications for access to confidential information and evidence from external applicants in nine cases.

C. Principal activity of the Appeals Chamber

(a) Interlocutory appeals

59. Fifteen decisions on interlocutory appeals were issued in the following cases: *Prlić et al.* (10); *Stanišić and Simatović* (2); *Stanišić and Župljanin* (1); and *Haradinaj et al.* (2).

(b) Contempt appeals

60. In *Prosecutor v. Florence Hartmann*, the Appeals Chamber converted the fine of 7,000 euros to a term of seven days of imprisonment.

61. Both Vojislav Šešelj and the amicus curiae prosecutor have appealed the trial judgement in *Prosecutor v. Vojislav Šešelj* (Case No. IT-03-67-R77.3), which found Šešelj guilty of one count of contempt of the Tribunal. The briefing of the appeal is currently in progress. Vojislav Šešelj also appealed the trial judgement in *Prosecutor v. Vojislav Šešelj* (Case No. IT-03-67-R77.4), which found Šešelj guilty of one count of contempt of the Tribunal. The briefing of that appeal is also currently in progress. In addition, both Jelena Rašić and the prosecution have appealed the sentence imposed by the Trial Chamber on 7 February 2012, which found Rašić guilty of five counts of contempt of the Tribunal. The briefing of the appeal is complete and a hearing will be held in due course.

(c) Appeals on the merits

62. The Appeals Chamber did not render any final judgements during the reporting period.

63. There are five appeals — *Prosecutor v. Nikola Šainovic et al.*, *Prosecutor v. Milan Lukić and Sredoje Lukić*, *Prosecutor v. Vujadin Popović et al.*, *Prosecutor v. Vlastimir Đorđević*, and *Prosecutor v. Ante Gotovina and Mladen Markač* — currently pending before the Appeals Chamber from previous reporting periods. One new appeal from judgement was filed before the Appeals Chamber in the *Perišić* case. Appeal hearings were held in the *Gotovina and Markač* and *Lukić and Lukić* cases. Judgements are due to be delivered during the second half of 2012 in both of

those cases. Pre-appeal activity is ongoing in the other cases of which the Appeals Chamber is seized.

(d) Other appeals

64. The Appeals Chamber rendered three decisions, in *Prosecutor v. Dragomir Milošević* (2) and *Prosecutor v. Naser Orić* (1).

65. A total of 135 pre-appeal decisions and orders were issued during the reporting period.

66. The Appeals Chamber is not seized of any review proceedings.

IV. Activity of the Office of the Prosecutor

A. Completion of trials and appeals

67. The beginning of the reporting period was marked by an important development when the last fugitive sought by the International Tribunal for the Former Yugoslavia, Goran Hadžić, was arrested in Serbia and transferred to the Tribunal at the end of July 2011. Since then, the Office of the Prosecutor has made substantial advances in finalizing its trial work. With the convergence of deadlines for final briefs and closing arguments in a number of trials, the Office of the Prosecutor is experiencing one of its busiest periods.

68. Currently, the *Hadžić* case is nearing the final stages of the pretrial phase; the *Mladić* case is in the prosecution evidence presentation phase, following the prosecution's opening statement in May 2012; the *Karadžić* case is in the pre-defence phase, following completion of the prosecution's evidence presentation and issuance of the Trial Chamber's judgement under rule 98 *bis*; and the *Stanišić and Simatović* case is in the final phase of presentation of evidence. In three other cases, the presentation of evidence has concluded and closing briefs and arguments have been scheduled (*Haradinaj et al.*, *Tolimir* and *Stanišić and Župljanin*). Two cases are awaiting judgement at the Trial Chamber level (*Prlić et al.* and *Šešelj*). In addition, six cases are on appeal (*Šainović et al.*, *Lukić and Lukić*, *Popović et al.*, *Đorđević*, *Gotovina and Markač* and *Perišić*) and contempt proceedings are ongoing in two cases (*Rašić* and *Šešelj*).

69. The Office of the Prosecutor successfully met its case-related obligations in the reporting period, notwithstanding serious budgetary and staffing constraints. Lack of regular funding for the *Mladić* and *Hadžić* trial teams until the beginning of 2012 resulted in many staff members working simultaneously on two or more trials, thus bearing unsustainably heavy workloads. In addition, the problem of staff attrition continues unabated. In the past reporting period, staff attrition included the Deputy Prosecutor, who left to assume the role of Prosecutor of the Special Tribunal for Lebanon. His position has not been filled and his duties are currently being shared among other members of senior management in the Office of the Prosecutor. Attrition has meant that remaining staff members continue to undertake multiple roles and the Office remains indebted to its staff for their commitment to the completion of the Tribunal's mandate. However, more sustainable staffing solutions must be found. Retaining staff with relevant expertise in the cases before the

Tribunal will be critical until the Tribunal's closure and the completion of all appellate work before the Residual Mechanism.

70. During the reporting period, the contempt proceedings arising from both the *Rašić* and *Šešelj* cases continued to divert already-depleted human resources. In particular, Šešelj persisted in flouting orders, which prohibit him from publishing confidential material.

71. In accordance with the downsizing process and transition to the Residual Mechanism, the Office of the Prosecutor continued to abolish posts, as trials reached completion. Staff members in the Immediate Office of the Prosecutor were actively involved in coordinating preparations for the Residual Mechanism and ensuring a smooth transition from the Tribunal to the Residual Mechanism.

B. Cooperation

72. The Tribunal continued to rely on the full cooperation of States to fulfil its mandate. The cooperation of States in the former Yugoslavia was particularly important.

73. Given that there no longer remain any fugitives indicted by the Tribunal, and subsequent to the January 2012 apprehension of Radovan Stanković, a transferee pursuant to rule 11 *bis* who had escaped from prison, cooperation with States in the former Yugoslavia was primarily focused on day-to-day support for ongoing trials and appeals. The Office of the Prosecutor continued to promote and assess cooperation with the region, and the Prosecutor continually renewed his efforts to foster working relations with national prosecutors. In September and November 2011, and again in April and May 2012, the Prosecutor met with officials in Zagreb, Sarajevo and Belgrade to discuss cooperation and other issues of mutual relevance.

1. Cooperation of Serbia

74. The ongoing cooperation of Serbia with the Office of the Prosecutor is vital to the successful progress of cases, especially given the tight deadlines faced by the *Mladić* and *Hadžić* trial teams. The Office required ongoing support from the Government of Serbia to access key documents and gather materials for the proper presentation of evidence to both the Trial and Appeals Chambers. In this regard, the cooperation of the Serbian authorities fully met expectations and the Office emphasizes the need to continue this collaborative working relationship in the next reporting period, under the newly elected President and Government of Serbia. Moreover, the Office expects that the Serbian authorities will provide prompt responses to outstanding requests for assistance.

75. The Office of the Prosecutor recognizes the efforts of the Serbian authorities, which resulted in the apprehension of Hadžić, the final indictee to be tried before the Tribunal. However, as the Office has repeatedly emphasized, Serbia must conduct a full investigation into the networks and individuals that harboured fugitives who had been indicted by the Tribunal, including Karadžić, Mladić and Hadžić, and hold those responsible to account. During the Prosecutor's visit to Belgrade in May 2012, the Serbian authorities provided very limited information concerning this issue. The Office notes press statements issued in June 2012 by the War Crimes Prosecutor of Serbia concerning progress made on the investigations.

The Office awaits a full report from the Serbian authorities about those developments and encourages the investigation to proceed as a matter of priority.

76. The Prosecutor has expressed concern about the comments made by the new President of Serbia, shortly after his election, denying that genocide occurred in Srebrenica in July 1995. The statements, which are not acceptable, contravene the legal and factual findings of the Tribunal and of the International Court of Justice. Such rhetoric is a step backwards, aggravates victims' suffering, and jeopardizes the fragile process of reconciliation in the former Yugoslavia.

2. Cooperation of Croatia

77. The Office of the Prosecutor continued to depend on cooperation from Croatia to complete trials and appeals in a timely manner. Over the course of the reporting period, the Croatian authorities provided timely and adequate responses to day-to-day requests from the Office for assistance and facilitated access to witnesses and evidence as required.

3. Cooperation of Bosnia and Herzegovina

78. During the reporting period, the authorities of Bosnia and Herzegovina responded promptly and adequately to the requests of the Office of the Prosecutor for documents, as well as access to Government archives. The Office commended the Bosnian authorities for the arrest of Radovan Stanković on 21 January 2012. In May 2007, he had escaped from the prison where he was serving a 20-year sentence. Stanković was the first indictee of the Tribunal to be transferred to Bosnia and Herzegovina pursuant to rule 11 *bis* of the Rules.

79. Delays continued in prosecuting cases for which the Office of the Prosecutor has provided investigative materials to Bosnia and Herzegovina (category 2 cases). During meetings with the Prosecutor in Sarajevo, in May 2012, the Special Department for War Crimes committed to completing investigations of category 2 cases by the end of the year and the Prosecutor encourages the Department to follow through on that commitment.

4. Cooperation between States of the former Yugoslavia in judicial matters

80. Improved cooperation between States of the former Yugoslavia is needed to ensure that the perpetrators of crimes committed during the conflict are brought to justice. The Office of the Prosecutor continued to facilitate collaboration between Serbia, Bosnia and Herzegovina, and Croatia to address impunity and foster productive working relationships between regional prosecutors.

81. However, the Office of the Prosecutor remained concerned about long-standing deficiencies in judicial and legislative frameworks, which undermine efforts to consolidate the rule of law in the region. In particular, judicial institutions across the region faced crippling challenges in coordinating their activities, which resulted in unacceptable delays. Additionally, legal barriers to the extradition of suspects and the transfer of evidence across State borders obstructed effective investigations.

82. The Office of the Prosecutor notes with concern that the proposed protocol between the Prosecutor's Offices of Bosnia and Herzegovina and Serbia on the exchange of evidence and information in war crimes cases has still not been signed.

When the Prosecutor addressed the issue at his meetings in Sarajevo in May 2012, he received no satisfactory explanation for the delay in signing the protocol. Political support to conclude the agreement is needed on all sides.

5. Cooperation of other States and organizations

83. Support from States outside of the former Yugoslavia, and international organizations, remains important to the successful completion of the Tribunal's mandate. To make progress expeditiously in its casework, the Office of the Prosecutor must continue to access the wealth of information held in the archives and other institutions of Member States. The Office acknowledges the assistance it received from the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization (NATO), OSCE, the Council of Europe and non-governmental organizations, including those in the former Yugoslavia.

C. Support to national war crimes prosecutions and effective implementation of national war crimes strategies

84. As the Tribunal enters the final phase of its operations, the Office of the Prosecutor is increasingly focusing its attention on the transition to domestic war crimes prosecutions. The transition team, under the Prosecutor's direction, continued its work to strengthen the capacity of national judicial institutions to effectively handle the large volume of war crimes cases that remain to be prosecuted in the region. In this regard, the Office dealt with a growing number of requests for assistance, most of which were received from Bosnia and Herzegovina. Judicial authorities in the former Yugoslavia also continued to utilize procedures established under the Tribunal's Rules to access confidential evidence from the Tribunal's cases, where appropriate. The joint "liaison prosecutors" project of the European Union and the Tribunal, whereby three liaison prosecutors from the region (one each from Bosnia and Herzegovina, Croatia and Serbia) work with the Office of the Prosecutor in The Hague, remains a central component of the expertise transfer strategy of the Office. Three liaison prosecutors and 10 young professionals from the region continue to work in the Office, pursuant to the third funding extension granted by the European Commission, in August 2011.

85. However, serious issues remained, particularly regarding the implementation of the national war crimes strategy in Bosnia and Herzegovina. While steps were taken by Bosnia and Herzegovina to improve the processing of cases, such as increasing the rate of referral of cases from the State court to entity courts, the national war crimes strategy faced significant challenges. The Office of the Prosecutor underscores the importance of expeditiously addressing the large backlog of over 1,200 cases involving thousands of suspects, and emphasizes that this process is crucial to the overall success of the Tribunal's mandate completion and legacy. Continued efforts are needed to strengthen the capacity of entity-level courts, efforts which include increasing resource allocation at the State and entity levels.

86. Further, political attacks on the judiciary, which aim to undermine the national war crimes strategy, should cease. It is essential that political leaders from all sides in Bosnia and Herzegovina fully support war crimes prosecutions and provide all the necessary resources and support to ensure successful outcomes.

V. Activity of the Registry

87. During the reporting period, the Registry provided operational support to the Chambers and the Office of the Prosecutor, assisted in the conduct of relations with States and international organizations, provided administrative support for the Tribunal, and managed the Tribunal's Communications and Outreach Programme.

A. Office of the Registrar

88. The Immediate Office of the Registrar supported the Registrar in his overall responsibility of directing and managing the Registry, including supervising all Registry sections, and representing the Tribunal in its relations with the host State, embassies and ministries, the United Nations and other international organizations. Through the efforts of the Immediate Office of the Registrar, the Tribunal was able to increase the number of States committed to enforcing sentences rendered by the Tribunal.

89. The Immediate Office of the Registrar further assisted the Registrar in formulating and implementing the strategic priorities for the Registry, proactively adopting and streamlining operational procedures to reflect the shift in the Tribunal's activities from trials to appeals. The Immediate Office of the Registrar, together with the Division of Administration, put a special emphasis on devising a fair and transparent downsizing process for the reduction of posts in accordance with the Tribunal's completion strategy. Every staff member was issued a contract of the maximum possible duration. The measure was designed to give staff members maximum certainty about their future at the Tribunal and has contributed positively to staff morale, which is crucial for the retention of qualified and motivated staff.

90. The Immediate Office of the Registrar has assisted the Registrar in the establishment of the Residual Mechanism, and facilitated preparations for the commencement of its operations in Arusha, United Republic of Tanzania, on 1 July 2012. This facilitation involved substantial administrative and legal support for the Residual Mechanism, including: the preparation of the budget submission, negotiations on a host State agreement, the recruitment of staff, negotiations on premises and assets, the development of judicial support policies and procedures, and the preparation of the transfer of functions and related records to the Residual Mechanism.

91. The Outreach Programme continued to be the key instrument in strengthening the relationship between the Tribunal and communities in the former Yugoslavia, by promoting the Tribunal's work and legacy, and the important principle of open justice. Over 14,000 people in the former Yugoslavia and The Hague participated in a variety of outreach events, including debates, lectures, conferences and training sessions on the work of the Tribunal. The events helped reduce misconceptions and bridge knowledge gaps about the institution.

92. The most important outreach activities conducted during the reporting period included: an educational project with youth in the former Yugoslavia, engaging 3,200 young people aged between 16 and 25, which enjoyed strong support from ministries of education in the region; and a planned series of documentaries on the Tribunal's major achievements, which was launched with a film on the Tribunal's groundbreaking role in fighting impunity for wartime sexual violence. The film,

produced in all of the languages of the former Yugoslavia, received excellent reviews and stimulated in-depth debate in the region.

93. Currently, the Outreach Programme depends entirely on external funding. The European Commission continued to ensure the uninterrupted functioning of the Programme, and the Government of Finland supported the youth education project. As noted by the General Assembly and a number of other international and regional actors, more vigorous outreach engagement is crucial in this decisive time of the Tribunal's existence. Therefore, the Tribunal will continue to approach Member States and other donors to support activities included in its carefully designed outreach strategy.

94. During the reporting period the Tribunal hosted 8,000 visitors, a record number, including over 300 from the former Yugoslavia. Visits were especially valuable in raising awareness and capacity-building among members of local judiciaries, journalists and activists from non-governmental organizations from the former Yugoslavia. The Tribunal's website and social media platforms continued to be essential elements of the Tribunal's communication strategy. The Tribunal website has received more than 3 million page views since August 2011. The Tribunal's social media efforts have expanded, with the recent launch of a Facebook page, which gained 300 followers in its first two weeks of operation. Viewers of the Tribunal's YouTube channel have more than doubled since last year, reaching 900,000, while the Tribunal's Twitter account has 3,000 followers, some 1,000 more than in the previous reporting period. Users from the former Yugoslavia constitute almost 50 per cent of the latter audience.

95. The Communications Service worked on the creation of the website for the Residual Mechanism, which was launched in its official languages in mid-2012. At the time of writing, work is under way to translate the content into Bosnian/Croatian/Serbian and Kinyarwanda.

B. Judicial Support Division

96. In the reporting period, the Court Management and Support Services Section supported seven first-instance cases at trial, one retrial and one pretrial case. During the same period, the Section supported six cases on appeal and seven contempt cases, including one case which remains in pretrial. It provided court officer support for seven videoconference links, 10 rule 92 *bis* missions, and one site visit. The Section supported one hearing conducted under rule 4 of the Rules. It also supported three self-representing accused through its *pro se* legal liaison officers, facilitating solutions to issues arising in the course of the proceedings. The court records assistants, court officers and court ushers processed 8,598 filings (approximately 139,400 pages) submitted by parties and others in proceedings before the Tribunal. The Office of Document Management received 69,731 pages of translation requests, of which 16,231 were identified as duplicate pages, resulting in a saving of approximately $1,313,253.[1]

97. The Conference and Language Services Section continued to provide interpretation, translation and court reporting services for all the organs of the Tribunal. The translation units translated approximately 67,500 pages into English,

[1] Calculated at $81 per page that did not have to be resubmitted for translation.

French, Bosnian/Croatian/Serbian, Albanian and Macedonian, while constant trial support and translation of judgements and other legal documents continued and is still ongoing. The interpretation unit registered close to 3,600 conference interpreter days. The court reporting services produced over 58,000 transcript pages. Interpretation services were also provided for official meetings, witness proofing sessions, and missions away from the seat of the Tribunal, including in the region of the former Yugoslavia.

98. During the reporting period, the operations and support units of the Victims and Witnesses Section assisted 315 witnesses (and accompanying support persons) travelling to The Hague to give evidence. The Section's protection unit coordinated professional responses to an increased number of threats to witnesses before, during and after their appearances to give evidence in Tribunal proceedings, and worked on the relocation of protected witnesses.

99. The Office of Legal Aid and Detention Matters continued to manage the Tribunal's legal aid system by serving over 390 defence team members, thereby safeguarding the accused's right to counsel. The majority of accused who are in the Tribunal's custody receive legal aid, and 60 per cent of those accused are involved in cases ranked at the highest complexity level. The Office continued to manage the facilities granted to all defence teams, and to ensure full respect of the rights of the accused by responding to complaints and concerns of detainees held at the United Nations Detention Unit, processing requests for visits to the Unit, and acting as a liaison between defence counsel and the Tribunal. The Office further provided facilities to self-represented accused in cooperation with the *pro se* legal liaison office and the Unit, and managed the assignment and resources for amicus curiae investigators and prosecutors in contempt cases.

100. As the Tribunal works towards the completion of it mandate, the United Nations Detention Unit further reduced its cell capacity by 19 per cent, while continuing to provide security and care for an average of 32.7 detainees during the reporting period, under the authority of the Tribunal. Many detainees were provided with medical care, including specialist medical assistance. The Unit facilitated the detainees' presence at court hearings, whether in person or through videoconference. It facilitated a large number of requests for provisional releases of various durations, as ordered by the Chambers. The Unit assisted self-represented accused by providing them with extra storage and office space, granting computer and database access suited to a detention environment, and allowing for witness interviews and proofing in exceptional circumstances. The Unit accommodated detained witnesses and detainees charged with contempt of the Tribunal, and facilitated contact between detainees and the media, where appropriate.

C. Administrative Support Division

101. By its resolution 66/239, the General Assembly, having considered the reports of the Secretary-General and the Advisory Committee on Administrative and Budgetary Questions on the proposed programme budget, decided to appropriate a total amount of $281,036,100 gross for the biennium 2012-2013.

102. During the biennium 2012-2013, extrabudgetary resources are estimated at $1,739,300 to be utilized for a variety of Tribunal activities. As of 15 July 2012, cash donations of approximately $50.8 million had been received by the Voluntary

Fund over the lifetime of the Tribunal. For the period from 15 June 2011 to 15 July 2012, the Tribunal received and administered $1,876,889 in voluntary cash contributions.

103. In its resolution 66/240 A, the General Assembly decided to appropriate a total amount of $49,771,700 gross ($47,325,100 net) for the Residual Mechanism during the biennium 2012-2013.

104. The Division of Administration remained actively engaged in downsizing and the second comparative review process, which was formulated in consultation with staff representatives. During the biennium 2010-2011, the Tribunal downsized 170 posts. The approved budget for 2012-2013 contemplates a further net reduction of 120 posts during the upcoming biennium.

105. The Division of Administration coordinated the preparation of the revised budget estimates for the biennium 2010-2011 and the proposed budget for the biennium 2012-2013. The Division of Administration was heavily involved in the formulation of the first budget of the Residual Mechanism. Following the closure of one of the three office buildings in The Hague, the Division of Administration finalized an office space allocation master plan in order to ensure the smooth relocation of personnel and archives to the remaining buildings of the Tribunal.